IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

KELLY, SUTTER, MOUNT & KENDRICK, P.C. d/b/a KELLY, SUTTER & § KENDRICK P.C. AND J. DOUGLAS § SUTTER, § § Plaintiffs, § § VS. CIVIL ACTION NO. H-05-2213 § Robert Alpert, Defendant.

MEMORANDUM AND ORDER

Plaintiffs, Kelly, Sutter, Mount & Kendrick, P.C., have filed a motion for default judgment against defendant Robert Alpert. It appears that Robert Alpert has failed to answer the complaint as required by Rule 12, Fed. R. Civ. P., making entry of default against him proper. Plaintiffs have filed an affidavit and exhibits in support of its claims for actual liquidated damages and reasonable attorneys' fees on this suit. Plaintiffs have also sent defendant notice of the motion for entry of default and default judgment. Further notice to the defendant and further hearings are not necessary in this cause. Rule 55(b)(2), Fed. R. Civ. P.

The court concludes that plaintiffs have established their entitlement to default judgment against Robert Alpert in the amount of \$ 92,460.39; prejudgment interest from September 8, 2004 at the rate of 6% per annum, for a total accrued interest of \$6,003.62 as

of October 3, 2005, and postjudgment interest on all of the above at the rate of 4.19 % *per annum*. It is further ordered that plaintiffs are awarded \$3,500 in reasonable attorneys' fees.

Plaintiff's motion for default judgment is granted.

SIGNED on October 25, 2005, at Houston, Texas.

Lee H. Rosenthal

United States District Judge